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In the Supreme Court of the United States

No. 00-1751
SUSAN TAVE ZELMAN, *et al.*,
Petitioners
v.
DORIS SIMMONS-HARRIS, *et al.*,
Respondents

Nos. 00-1777 and 00-1779 are
shown on inside of cover

On Writ of Certiorari
to the United States Court of Appeals
for the Sixth Circuit

~~Motion of~~ Hugh Calkins ~~for Leave to file~~ Brief as *Amicus Curiae*, ~~and Brief~~, in Support of Petitioners

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No. 00-1777

HANNA PERKINS SCHOOL, *et al.*,

Petitioners

v.

DORIS SIMMONS-HARRIS, *et al.*,

Respondents

No. 00-1779

SENEL TAYLOR, *et al.*,

Petitioners

v.

DORIS SIMMONS-HARRIS, *et al.*,

Respondents

Motion for Leave to File Brief *Amicus Curiae* In Support of Petitioners

Hugh Calkins hereby moves, pursuant to Supreme Court Rule 37.2, for leave to file a brief in support of Petitioners as *amicus curiae*. He requested consent from counsel for all parties by mail and fax on October 16, 2001. Consents have been received and forwarded to the Clerk from counsel for the State Petitioner, from Petitioners Senel Taylor *et al.*, and from Respondents. Despite repeated follow-up inquiries, no word has been received from David J. Young, Esq., counsel for Petitioners Hanna Perkins School *et al.* This motion is therefore necessary.

STATEMENT OF *AMICUS* INTEREST

Hugh Calkins, the *amicus*, was a law clerk to Mr. Justice Frankfurter in the 1950-51 term of this Court. Since 1975 he has been a member of the Council of the American Law Institute. He was an elected member of the Cleveland Board of Education from 1965 to 1969. In 1969 he was appointed by President Johnson Chair of the National Advisory Committee on Vocational Education. Upon retirement from the practice of law in 1990, Calkins obtained a teaching certificate and taught in Cleveland elementary schools, and a middle school,

for four years. Following that experience, Calkins has devoted his energies to improving education in Cleveland in four principal ways. He has stimulated and helped finance improvement projects in Cleveland schools. He has encouraged improved pre-school and child care/education for children 1 to 5. He has researched and advanced proposals for improved school finance. He assisted in the formation of a charter school in inner-city Cleveland, and served as Chair of its Board of Trustees for three years.

The interest of the *amicus* in this case is three-fold. (1) The *amicus* believes that the decision of the Court of Appeals for the Sixth Circuit was erroneous, and that the Cleveland voucher plan is a valid and valuable component of an array of programs designed to improve educational opportunity in Cleveland. He further believes that similar programs in other cities with high rates of educational failure would be valid and helpful in overcoming America's critical big city educational problem. (2) The *amicus* believes that the private choice argument relied on by Petitioner raises issues which are not presented by the facts of this case, and should not be adopted by

this Court as the ground for its decision in this case. (3) The *amicus* believes it may be useful to this Court for the *amicus* to apply the "endorsement" approach of Justice O'Connor, which now represents the holding of this Court on this issue, to this case, and to point out weaknesses and dangers inherent in making "private choice" by itself a decisive criterion.

Respectfully submitted,

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November 2, 2001

In the Supreme Court of the United States

No. 00-1751
SUSAN TAVE ZELMAN, *et al.*,
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Brief of Hugh Calkins as *Amicus Curiae*,
in Support of Petitioners

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QUESTION PRESENTED

Should the validity under the Establishment Clause of a voucher plan which attempts to provide improved education to low-income students in a school district characterized by high rates of educational failure be determined:

(a) by using a "private choice" standard, which would validate state-wide plans as well, or

(b) by using the endorsement standard advanced by Justice O'Connor, which could limit the decision to low-income students or school districts providing unsatisfactory education?

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STATEMENT ON CONSENTS, AUTHORSHIP AND MONETARY CONTRIBUTION

This brief *amicus curiae* is submitted in support of Petitioners in accordance with Rule 37.2(a) of the Rules of this Court. All parties have consented to the submission of this brief, through communications filed with the Clerk of the Court, except one. A motion for leave to file is therefore attached. Hugh Calkins authored this brief in its entirety, and no other person has made a monetary contribution to the preparation or submission of this brief.

STATEMENT OF *AMICUS* INTEREST

The Statement appears in the motion to which this brief is appended, and is not repeated here.

SUMMARY OF ARGUMENT

This case presents an opportunity for this Court to establish that in support-to-sectarian-school cases, the only satisfactory guideline will be one which permits some balancing of factors. The simplistic, absolute rule proffered by Petitioners delegates to parents the resolution of important Constitutional issues. The "endorsement/discouragement" guideline advanced by Justice O'Connor requires the Court to reach an informed judgment based on the facts of the particular case.

In this case there are two salient facts. One is the unsatisfactory educational performance of Cleveland public schools. The other is that the program designed by Ohio as a partial response to that performance is limited to Cleveland, although it might permissibly be extended to other districts in Ohio and elsewhere which are failing to educate large numbers of their young people.

The ground advanced by Petitioners, however, would validate support to sectarian schools even where the public schools were providing very satisfactory education. A state program to provide funds to sectarian schools under such circumstances presents a very different issue which this Court should not resolve in this case. A fundamental principle of this Court's jurisprudence is that it will not "formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied." *Ashwander v. Valley Authority, 297 U.S. 288, 347(1936)* (Justice Brandeis, concurring).

Petitioners are asking this Court in this case to do just that. The ground on which Petitioners are seeking reversal of the judgment below is that the Cleveland voucher plan is a "true private choice program," and

"True private choice programs, *by their very nature, cannot* have the forbidden 'primary effect' of the government 'advancing religion.' That is because, when students or parents decide where aid will be applied, any religious 'advancement' that occurs is attributable to private choices, not governmental action....Accordingly, this Court's decisions hold, contrary to the Sixth Circuit, that when individuals determine whether and how much money flows to religious institutions, it is no more troubling than when a government employee donates her paycheck (all derived from public funds) to a church." (citations omitted and emphasis supplied) Petition for Writ of Certiorari filed by attorneys for the State of Ohio p. 21

The fact that Petitioners cannot see a difference between this case and a church contribution from a government paycheck dramatizes how little judicial discretion is allowed in the private choice ground on which they rest their case.

The first difficulty with the position the Petitioners are urging on the Court is that it is incorrect to assert that the private choice standard is already established by the decisions of this Court. It is not. In *Mitchell v. Helms,* 530 U.S. ___, 120 S.Ct. 2530 (2000) Justice O'Connor agreed that private choice, which she subsumed under the term "neutrality," was a significant factor. She protested, however, that the rule advanced in the plurality opinion was a rule of "unprecedented breadth" which she did not accept as a "single and sufficient test" for establishing Constitutionality of school aid. *Mitchell v. Helms, supra,* at 2556 and 2557. See also the discussion at page 15 of *Marks v United States*, 430 U.S. 188 (1977), in which this Court adopted a principle under which the Justice O'Connor endorsement test, and not the new Justice Thomas formulation, represents the current judgment of this Court.

The second difficulty is that. in the real world of parent choice, a parent's decision on what school to select is powerfully influenced by a rational parental desire to find a classroom dominated by middle class, and not low-income, students. Middle class students are often found in tuition-charging schools. A government program which subsidizes attendance at tuition-charging schools, especially if the schools are permitted to select students by admissions tests and charge tuition in excess of the subsidy, is likely to enhance the segregation by family income level which already exists among schoolchildren in this country as a result of neighborhood segregation. Such a program, which would be valid under a "private choice" rationale, is therefore hard to justify as sound educational policy, and its enactment is likely to be considered an endorsement of religion.

The final difficulty, and a highly topical one, is that, if parent choice validates all government aid to schools, it will be difficult to find a principled ground consistent with entanglement and free exercise concerns to exclude from a government tuition subsidy program those schools, possibly financed by oil-rich countries abroad, which teach their students doctrines quite antithetical to American values – for instance, that close association with persons outside of the sect is immoral. The reality of this concern is confirmed by the material in the Appendix.

The bottom line is that there is no simple talisman, which will resolve Establishment Clause cases. It is wise jurisprudence to decide each case on a ground tied to the facts of the case, which is as narrow as the circumstances permit.

In this case the crucial facts are the extent of educational failure in the Cleveland Municipal School District, and the fact that by its terms the plan is limited to that district.[1] Those facts demonstrate that the plan responds to an educational crisis and does not constitute an endorsement of religion. Therefore, the plan is valid under the Establishment Clause.

ARGUMENT

I. Under the Endorsement Guideline of Justice O'Connor, The Cleveland Voucher Plan Is Valid, Since The Plan's Limitation. To A School District That Is Not Educating Acceptably The Majority Of Its Students Itself Establishes That The Plan Does Not Constitute An Endorsement Of Religion. For The Plan To Constitute Such An Endorsement, It Would Have Had to Apply Throughout The State Of Ohio.

[1] Cleveland is the only Ohio District as to which a District Court has ordered a transfer of control to the State Superintendent. In view of the loss of interest nationwide in pursuing racial desegregation in the courts, it is unlikely that another such district will emerge.

Without doubt, the Cleveland voucher plan has important educational characteristics. It provides Cleveland youngsters and their parents with an important alternative to attending Cleveland Municipal School District schools. Most participating children enroll in parochial and other church-related schools. Other students in those schools, who do not participate in the voucher plan, are paying significant tuition and typically are of middle class, rather than low-income, backgrounds. It was reasonable for the Ohio Legislature to conclude that low-income students, enrolling in the more diversified student bodies of such parochial and church related schools, and exposed to a traditional sectarian curriculum, would receive a better education than had they remained in the Cleveland neighborhood schools.

Religious characteristics of the Cleveland voucher plan are also clear. The size of the subsidy is more than enough to cover the variable costs of adding students to existing classrooms with existing teachers, especially if the schools have the low cost structure of most church-related schools. The fact that a high proportion of the voucher students are enrolled in preexisting, church related schools, and not in newly created schools (Brief of State Appellants in Court of Appeals p. 8), and the further fact that non-church-related voucher schools have converted to charter status once that status was made available (Brief of State Appellants in Court of Appeals p. 11) are evidence that the voucher is attractive to supplement the income of the existing schools, but inadequate to sustain new private schools. Religious characteristics of the plan are that it provides financial support to parents who could not otherwise send their children to fill otherwise empty seats in church-related schools. See Ohio Rev. Code Section 3313.975.

The issue before this Court, therefore, is: which of the characteristics of the program establish its real character? Does the plan communicate a response to an educational need, or an endorsement of religion?

On this question, there is no better indicator than the terms of the plan itself. The Ohio Legislature chose to limit the plan to the Cleveland Municipal School District. Educational conditions in that district were so deplorable that a District Judge had directed the takeover of the District by the State Superintendent of Public Instruction. The District failed to meet any of the State's 18 minimum performance standards. (Brief of United States in Support of Petition for Certiorari p. 4) If the purpose of the plan had been to encourage church- related education, it would have made no sense to have limited the plan to Cleveland. To the contrary, the limitation demonstrates the genuineness of the legislative purpose to relieve what is probably the most critical educational problem in the State.

What is true of purpose is also true of endorsement. Providing some financial support to some church-related schools in Cleveland is not the message communicated by the plan. That it attempts to provide a better education where educational improvement is critically needed is the character it conveys. No one would confuse this effort to provide better education where it was so badly needed with an endorsement of religion.

The Cleveland voucher plan is therefore valid under the Establishment Clause.

II. PARENT CHOICE IS AN UNSATISFACTORY CRITERION FOR JUDGING FINANCIAL SUPPORT FOR SECTARIAN SCHOOL CASES UNDER THE ESTABLISHMENT CLAUSE FOR THREE REASONS. THEY CONFIRM THE USEFULNESS OF THE ENDORSEMENT GUIDELINE OF JUSTICE O'CONNOR.

A. A single test is inherently unsatisfactory

"Experience proves," Justice O'Connor wrote in her concurring opinion in *Board of Ed. Of Kiryas Joel Village Schl. Dist. V. Grumet*, 512 U.S. 687, 720 (1994), "that the Establishment Clause, like the Free Speech Clause, cannot be easily reduced to a single test." There are different categories of cases involving government support to sectarian schools, which may call for different approaches.

The private choice standard advocated by Petitioners is a one-rule-fits-all kind of standard. It leaves no room for different approaches in all cases in which pure parent choice exists.

B. Absence of free choice

Proponents of the "private choice" criterion for resolving government aid to sectarian school cases contend that the aid which is allotted by parent choice is not government aid to the school because the parent makes an independent, unpressured decision where her child will go to school. The situation is said to be similar to a parent receiving a tax refund or a government salary, and choosing to spend it on sectarian school tuition.

The contention has a logical basis. "Private choice" is clearly a relevant factor in determining whether an Establishment Clause violation has occurred. It is when it is considered to be, by itself, the controlling factor, that trouble arises.

To rebut a possible argument that education in Cleveland Metropolitan School District schools is so unsatisfactory as to limit free choice, Petitioner State of Ohio argues in its reply brief in support of its petition for a writ that Cleveland parents can choose a Cleveland magnet or community school, as well as a voucher sectarian school. Their choice is therefore said to be "free." This rebuttal overlooks a major qualification on freedom of choice.

There has for years existed in this country, and there exists today, a powerful and rational pressure from parents to seek for their children a school in which classmates will be predominantly middle class. The desire to escape from schools in which children are mostly of low-income backgrounds explains much of the flight to the suburbs which has been in progress for decades, and much of the widespread anger over the efforts of courts in the past two decades to replace the neighborhood school pattern with a busing pattern designed to achieve racial and economic integration.

The attitude of parents is rational. Every athlete knows that to improve his skill he should play with those who are a little better than he. It is often stated that students learn more from other students than from anyone else. The persistence of the idea that truly able students should be in separate classrooms for advanced students is confirmation that parents act sensibly when they seek high-performing ability groups for their children. Modern academicians, seeking to help low income students through association with higher income students, often claim that the higher income students learn as much in a classroom with low income students as they would in a class restricted to the able. What is important for present purposes is that the academicians are not believed by parents. Nearly all parents seek the best for their children, and the best education, they are convinced, is in classrooms with slightly more advanced classmates.

Because success in school is closely related to the educational level of the parents, and their educational level is closely associated with family income, schools which charge tuition are more likely than no-tuition schools to attract students from the middle class, and to repel students from low income families. It follows that, if the present tuition barrier to enrollment in tuition-charging schools were to be significantly reduced but not eliminated by a vouchers- for-all plan, many middle class families, but few low income families, would enroll their children in the tuition-charging schools.

The effect of the vouchers-for-all plan would therefore be to encourage a segment of American society – families with sufficient income to pay the difference between the school's tuition and the amount of the voucher – to enroll their children in tuition-charging schools, many of which would be religiously affiliated. The loss to the public schools of these more successful students would diminish the quality of education in the public schools. The inequality in educational opportunity thus created might support a challenge to the plan on Equal Protection grounds. It would certainly invite challenge under the Establishment Clause, on the ground that the educational merit in the plan, while arguable, was not strong enough to overcome the conclusion that the program constituted an endorsement of religion.

C. The difficulty of allowing government support for all religious sects, or for some but not all sects.

The third reason why parent choice is an unsatisfactory criterion for applying the Establishment Clause to government support for schools today is illustrated by a recent news story in the *New York Times*. Excerpts are included as the Appendix to this brief. The *Times* reported on October 20, 2001 that a fundamentalist group in Saudi Arabia which practiced an "austere" form of Islam known as "Wahhabism" was attempting to recruit U.S. Moslems to their group. According to the *Times*, Wahhabism teachings have inspired the violent extremism of Osama bin Laden and the Talaban government that harbors him in Afghanistan. Interacting very closely with non-Muslim society is among the acts forbidden by Wahhabism.

The *Times* reported that this group spent $10,000,000 in two years in the 1980's building mosques in the United States in an effort to recruit U.S. Muslims to its views. The *Times* attributed declining mosque construction activity in recent years to declining oil revenues in Saudi Arabia.

A plausible scenario relevant to this case is the possibility that the Wahhabis conclude that a better way to recruit American Moslems to their cause is to put their money into the construction of schools with gymnasiums, swimming pools, laboratories and an auditorium, and to urge Moslem families to enroll their children. The financial burden on the Wahhabis and the parents would be reduced by a vouchers-for-all plan. Those who advocate private choice as the controlling Establishment Clause criterion would have difficulty finding any ground on which payment of the vouchers to the Wahhabi schools could be denied without raising acute issues of entanglement and free exercise.

Fortunately, a majority of this Court remains committed to the salutary principle that the Establishment Clause forbids government support to religion, which constitutes an endorsement of religion.

III. While No Single Rubric Resolves The Application Of The Establishment Clause To Government Support Of Sectarian Schools, A Serviceable Guideline Is Found In The "Endorsement or Discouragement" Guideline Advanced By Justice O'Connor.

A. Justice O'Connor's Statement of the Guideline

In her concurring opinion in *Lynch V. Donnelly*, 465 U.S. 668, 690 (1984), and again in *Wallace v. Jaffree*, 473 U.S. 38, 69 (1985), Justice O'Connor advanced concepts of endorsement and neutrality as guidelines for applying the Establishment Clause in school support cases. If the government action constitutes an endorsement, or a discouragement, of religion, the action is invalid.

B. Justice O'Connor's Guideline Represents The Holding Of This Court In *Mitchell v. Helms*

The endorsement concept was tested most recently in *Mitchell v. Helms*, 530 U.S. ___, 120 S.Ct. 2530 (2000). This case concerned the validity of a portion of the Elementary and Secondary Education Act under which a public authority may loan educational equipment to church-related schools for use in implementing secular programs. Writing for a plurality of four, Justice Thomas propounded revised criteria to govern school financial support Establishment Clause cases. Under these criteria, a government program would be valid if it "does not result in governmental indoctrination; define its recipients by reference to religion; or create an excessive entanglement." *Mitchell v. Helms, supra,* at 2540.

Justice Thomas argued that his formulation was derived from the Court's decision in *Agostini v. Felton*, 521 U.S. 203 (1997). Justice O'Connor, however, was the author of the *Agostini* opinion, and concurred in *Mitchell*. She stated in her concurring opinion in *Mitchell* that the Thomas formulation was a "rule of unprecedented breadth." *Id.*, at 2556. She asserted that neutrality, which became a paramount criterion in the Thomas formulation, was only one of several factors leading to the *Agostini* conclusion. Id. at 2557. The *Agostini* and the *Mitchell* programs were valid, because there was no evidence, and no presumption, that the remedial teachers or the borrowed equipment would be used to indoctrinate children in religion. Id. at 2568.

It therefore appears that Justice Thomas' view, as expressed in *Mitchell v. Helms,* does not represent any holding of the Court. *Marks v. United States*, 430 U.S. 188, 193 (1977), holds that, when no opinion is joined by a majority of the Court, the narrowest ground supported by at least five justices represents the holding of the Court. Justice O'Connor's endorsement guideline therefore now represents the holding of the Court on these issues.

IV. UNDER ESTABLISHED SUPREME COURT JURISPRUDENCE, THIS COURT WILL NOT FORMULATE A RULE OF CONSTITUTIONAL LAW BROADER THAN IS REQUIRED BY THE PRECISE FACTS TO WHICH IT IS TO BE APPLIED.

Especially when it is interpreting the Constitution, this Court decides only the case before it, and does not lay down rules which would decide, not only that case, but others in which the facts are not yet clearly understood and the issues have not been fully explored in briefs and argument and in the decisions below. As Mr. Justice Brandeis stated, concurring in *Ashwander v. Valley Authority,* 297 U.S. 288, 347 (1936), "The Court will not 'formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.' *Liverpool, N.Y. & P.S.S. Co. v Emigration Commissioner,* [113 U.S. 33 (1885)]."

Justice Brandeis' limiting principle has been followed by members of the Court in recent cases. See *Good News Club v. Milford Central School,* 121 S. Ct. 2093, 2115 (2001), in which Justice Stevens, dissenting, stated that he would not "reach out" to decide an Establishment Clause question which had not been considered by the courts below; cf *Santa Fe Independent School District v. Doe,* 530 U.S. 290, 321 (2000), in which Chief Justice Rehnquist criticized the majority for deciding an issue before the relevant outcome of an election on use of school facilities was known.

The case at bar involves a voucher plan limited to a school district in which it is conceded by all that substantial educational improvement is needed. The facts relevant to determining the validity of the Cleveland plan are well known, and the issues relating to its validity have been extensively briefed.

If this plan is upheld on the ground advanced by Petitioners, however, it is likely that this Court's decision will

be relied on by states to create voucher plans applicable to all districts, including many which are providing acceptable education.

This Court should avoid deciding this case on grounds that would be so broad as to apply to a voucher plan extending to educationally successful districts. The effect that such a plan would have on the religious preferences of U. S. citizens is unknown. No one has approximated the number of parents who would take advantage of such a plan, or the number of denominations and ethnic groups which would create schools for their own children in response to such legislation.

No one has resolved whether such voucher schools could exclude students on the basis of ethnicity or religion — after all, they would be private, often sectarian schools, and to avoid the "entanglement" issue the authorizing legislation would impose a minimum of regulation on schools admitting voucher students. The size of the voucher, and the right of the school to charge tuition in excess of the voucher or employ admission tests, are important unknowns. The effect of a possible statewide voucher plan on public schools is speculative. This Court should not decide in this proceeding the validity of a statewide plan about which so little is known.[1]

CONCLUSION

For these reasons, this Court should reverse the Court of Appeals, and hold that the Cleveland voucher plan is valid because its limitation to a district desperately needing educational improvement causes it to pass the "endorsement" test. The Court should not approve the "parent choice solves the problem" approach taken by the Petitioners. In the words of Justice Brandeis, concurring, this Court should not "formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied." *Ashwander v. Valley Authority, supra.*

Respectfully submitted,

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November 2, 2001

[1] It is noteworthy that references to "failing schools," "underperforming schools," unacceptable school performance,low-income families," "disadvantaged children," and "districts subject to federal court orders" appear no less than 15 times in the brief *amicus curiae* filed by the United States in support of the granting of certiorari. The guidance the United States seeks from this Court relates to programs "enacted in response to specific educational crises in failing public schools." Brief for the United States in Support of Petition for Certiorari p. 18. Clearly, the United States is not thinking of a statewide plan.

Appendix

Extract from Article by Blaine Harden published on p. 1 of *New York Times* on October 20, 2001under headline: "Saudis Seek U.S. Muslims for their Sect."

In a costly and quietly insistent campaign to spread its state religion, Saudi Arabia has been trying for decades to induce American Muslims to become followers of the puritanical Islamic sect that sustains the power of the Saudi royal family.

By building mosques across the country, sending Americans to the Middle East to be trained as imams and promoting pilgrimages to Mecca, the Saudis have spent hundreds of millions of dollars in an effort to stamp their austere version of Islam on the lives of Muslims in the United States.

That version is called Wahhabism, although the Saudis are loath to use the term in referring to their proselytizing in this country. As practiced in Saudi Arabia, Wahhabism denies equal rights to women, and its teachings have inspired the violent extremism of Osama bin Laden and the Taliban government that harbors him in Afghanistan.

"In America, the Saudis don't call it Wahhabism because they don't want to have all the albatrosses associated with the sect," said Earle H. Waugh, a professor of religion atthe University of Alberta, who is the author of several books about Muslims in North America. "But they have a strong mission tradition, and they have used their money to export their ideology to America. Wahhabism says that Islam is the superior religion and must always be so."

Despite all their efforts, the Saudis' approach to Islam appears not to have found widespread acceptance in the United States and in fact seems to have faded in popularity

here in recent years, perhaps because it is too rigid for a multiethnic society like America's. Experts estimate that of the two million American Muslims who attend mosques regularly, no more than 25 percent, and perhaps many fewer, adhere to the strictures of Wahhabism.

As the Saudis themselves explain, their beliefs reject aspects of Western culture that they see as deviating from fundamental teachings of the Koran. Mingling of the sexes, living in a community where alcohol is consumed, eating pork and interacting very closely with non-Muslim society are forbidden.

"A knowledgeable Muslim will find it hard to integrate into a non-Islamic society of the United States," explained Muhammad al-Alahmari, a Saudi who is chairman of the Islamic Assembly of North America, an organization based in Ann Arbor, Mich., that sends copies of the Koran to prisons and libraries.

About half the group's money, Mr. Alahmari said, comes from the Saudi government, with the rest coming from private donors, most of them Saudi.

A number of prominent religious scholars describe Wahhabism as a particularly rigid minority Islamic sect that is intolerant of other forms of Islam, unwilling to accommodate other religions and likely to create a narrow view of the world among its followers.

In the 1970's and 80's, when Saudi Arabia was flush with oil money, the United States experienced a boom in the founding of mosques. About 57 percent of the country's 1,200 mosques were built in those years, academics estimate.

Records of the Saudi-controlled Muslim World League

show that during a two-year span in the 1980's, the organization spent about $10 million in the United States on mosque construction, said Yvonne Y. Haddad, a professor of the history of Islam at the Georgetown center.

Mr. Alahmari, the Saudi charity official based in Ann Arbor, estimates that half the mosques and Islamic schools in the United States have been built with the help of money from Saudi Arabia. The Saudi royal family has directly contributed to the construction of a dozen mosques, including the $8.1 million King Fahd Mosque in Culver City, Calif.

Although the Saudi Embassy official maintained that "there are absolutely no strings attached" to Saudi spending, several scholars and American Muslims said the money had often involved a quid pro quo.

"At several mosques around Los Angeles, they would dole out money month by month until something happened that they didn't like, such as boys and girls mixing together in religious classes," said Mr. Akbarut, a member of the Islamic Center of Southern California. He said the Pasadena mosque where he prays had refused money from the Saudis.

The training of Americans, especially African-Americans, as imams in Saudi Arabia has also had a clear ideological purpose, said Faheem Shuaibe, imam at a large, predominantly black mosque in Oakland, Calif. More than 200 African-American imams have been trained in Saudi Arabia, he said.

"There was a very deliberate recruitment process by the Saudis, trying to find black Muslims who had a real potential for Islamic learning and also for submission to their agenda," said Mr. Shuaibe, who has frequently traveled to Saudi Arabia. "They taught Islam with the intent to expand their influence. A principal target was to stop the indigenous

Muslim leadership in America from tinkering with the religion."

Estimates of the percentage of American Muslims who worship in mosques that adhere to Wahhabism vary widely. Just as Saudis do not describe their faith as Wahhabism, conservative imams in America reject that label for their mosques. Several scholars said they did not know of a single mosque in this country that identified itself with the Saudi sect.